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Agenda item 70 (a)
Promotion and protection of human rights: implementation of human rights instruments

Argentina, Austria, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Costa Rica, Croatia, Czech Republic, Denmark, Estonia, Finland, Germany, Guatemala, Honduras, Hungary, Iceland, Ireland, Latvia, Liechtenstein, Luxembourg, Mexico, Montenegro, Netherlands, New Zealand, Nigeria, Norway, Poland, Portugal, Romania, Serbia, Sweden, Switzerland, the former Yugoslav Republic of Macedonia and Turkey: draft resolution

Torture and other cruel, inhuman or degrading treatment or punishment

The General Assembly,

Reaffirming that no one shall be subjected to torture or to other cruel, inhuman or degrading treatment or punishment,

Recalling that freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right that must be protected under all circumstances, including in times of international or internal armed conflict or disturbance, and that the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment is affirmed in relevant international instruments,

Recalling also that a number of international, regional and domestic courts, including the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, have recognized that the prohibition of torture is a peremptory norm of international law and have held that the prohibition of cruel, inhuman or degrading treatment or punishment is customary international law,

Recalling further the definition of torture contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[1] without prejudice to any international instrument or national legislation which contains or may contain provisions of wider application,

[1] United Nations, *Treaty Series*, vol. 1465, No. 24841.

Noting that under the Geneva Conventions of 1949[2] torture and inhuman treatment are a grave breach and that under the statutes of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 and the Rome Statute of the International Criminal Court[3] acts of torture in armed conflict constitute war crimes and can constitute crimes against humanity,

Welcoming the establishment of national mechanisms for the prevention of torture pursuant to the obligations of States parties to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[4] which entered into force on 22 June 2006,

Welcoming also the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance by the General Assembly in its resolution 61/177 of 20 December 2006,

Commending the persistent efforts by non-governmental organizations, including the considerable network of centres for the rehabilitation of victims of torture, to combat torture and to alleviate the suffering of victims of torture,

1. *Condemns* all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment;

2. *Emphasizes* that States must take persistent, determined and effective measures to prevent and combat torture and other cruel, inhuman or degrading treatment or punishment, including their gender-based manifestations, and stresses that all acts of torture must be made offences under domestic criminal law;

3. *Also emphasizes* the importance of States ensuring proper follow-up to the recommendations and conclusions of the relevant treaty bodies and mechanisms, including the Committee against Torture, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment;

4. *Condemns* any action or attempt by States or public officials to legalize, authorize or acquiesce in torture and other cruel, inhuman or degrading treatment or punishment under any circumstances, including on grounds of national security or through judicial decisions;

5. *Stresses* that all allegations of torture or other cruel, inhuman or degrading treatment or punishment must be promptly and impartially examined by the competent national authority, that those who encourage, order, tolerate or perpetrate acts of torture must be held responsible, prosecuted and severely

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[2] Ibid., vol. 75, Nos. 970-973.

[3] Ibid., vol. 2187, No. 38544.

[4] Resolution 57/199, annex.

punished, including the officials in charge of the place of detention where the prohibited act is found to have been committed;

6. *Takes note* in this respect of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles)[5] as a useful tool in efforts to prevent and combat torture and of the updated set of principles for the protection of human rights through action to combat impunity;[6]

7. *Calls upon* States parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment[1] to fulfil their obligations to prosecute or extradite those alleged to have committed acts of torture;

8. *Calls upon* all States to ensure that persons convicted of torture or other cruel, inhuman or degrading treatment or punishment have no subsequent involvement in the custody, interrogation or treatment of any person under arrest, detention, imprisonment or other deprivation of liberty;

9. *Emphasizes* that acts of torture in armed conflict are serious violations of international humanitarian law and in this regard constitute war crimes, that acts of torture can constitute crimes against humanity and that the perpetrators of all acts of torture must be prosecuted and punished;

10. *Urges* States to ensure that any statement that is established to have been made as a result of torture or other cruel, inhuman or degrading treatment or punishment shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made;

11. *Stresses* that States must not punish personnel who are involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment or any other form of deprivation of liberty for not obeying orders to commit or conceal acts amounting to torture or other cruel, inhuman or degrading treatment or punishment;

12. *Urges* States not to expel, return ("refouler"), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, and recognizes that diplomatic assurances, where used, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement;

13. *Stresses* that national legal systems must ensure that victims of torture and other cruel, inhuman or degrading treatment or punishment obtain redress, are awarded fair and adequate compensation and receive appropriate social and medical rehabilitation, urges States to take effective measures to this end, and in this regard encourages the development of rehabilitation centres;

14. *Recalls* its resolution 43/173 of 9 December 1988 on the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and in this context stresses that ensuring that any individual arrested or detained is promptly brought before a judge or other independent judicial officer in person and permitting prompt and regular medical care and legal counsel as well

[5] Resolution 55/89, annex.

[6] See E/CN.4/2005/102/Add.1.

as visits by family members and independent monitoring mechanisms are effective measures for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;

15. *Reminds* all States that prolonged incommunicado detention or detention in secret places facilitates the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person;

16. *Calls upon* all States to take appropriate effective legislative, administrative, judicial and other measures to prevent and prohibit the production, trade, export and use of equipment that is specifically designed to inflict torture or other cruel, inhuman or degrading treatment or punishment;

17. *Urges* all States that have not yet done so to become parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as a matter of priority;

18. *Invites* all States parties to the Convention that have not yet done so to make the declarations provided for in articles 21 and 22 of the Convention concerning inter-State and individual communications, to consider the possibility of withdrawing their reservations to article 20 of the Convention and to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 of the Convention with a view to enhancing the effectiveness of the Committee against Torture as soon as possible;

19. *Urges* States parties to comply strictly with their obligations under the Convention, including, in view of the high number of reports not submitted in time, their obligation to submit reports in accordance with article 19 of the Convention, and invites States parties to incorporate a gender perspective and information concerning children and juveniles and persons with disabilities when submitting reports to the Committee against Torture;

20. *Calls upon* States parties also to become parties to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[4] which provides further measures for use in the fight against and prevention of torture and other cruel, inhuman or degrading treatment or punishment;

21. *Welcomes* the work of the Committee against Torture and its report submitted in accordance with article 24 of the Convention,[7] recommends that the Committee continue to include information on the follow-up by States to its recommendations, and encourages the Committee to further strengthen efforts to ensure that its meeting time is used most effectively;

22. *Calls upon* the United Nations High Commissioner for Human Rights, in conformity with her mandate established by the General Assembly in its resolution 48/141 of 20 December 1993, to continue to provide, at the request of States, advisory services for the prevention of torture and other cruel, inhuman or degrading treatment or punishment, including for the preparation of national reports to the Committee against Torture and for the establishment and operation of national

[7] *Official Records of the General Assembly, Sixty-second Session, Supplement No. 44* (A/62/44).

preventive mechanisms, as well as technical assistance for the development, production and distribution of teaching material for this purpose;

23. *Notes with appreciation* the interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment,[8] and encourages the Special Rapporteur to continue to include in his recommendations proposals on the prevention and investigation of torture and other cruel, inhuman or degrading treatment or punishment, including its gender-based manifestations;

24. *Requests* the Special Rapporteur to continue to consider including in his report information on the follow-up by States to his recommendations, visits and communications, including progress made and problems encountered, and on other official contacts;

25. *Calls upon* all States to fully cooperate with and assist the Special Rapporteur in the performance of his task, to supply all necessary information requested by the Special Rapporteur, to thoroughly and expeditiously respond to and follow up his urgent appeals, to respond favourably and rapidly to requests by the Special Rapporteur to visit their countries and to enter into a constructive dialogue with the Special Rapporteur on requested visits to their countries as well as with respect to the follow-up to his recommendations;

26. *Stresses* the need for the continued regular exchange of views among the Committee against Torture, the Subcommittee on Prevention of Torture, the Special Rapporteur and other relevant United Nations mechanisms and bodies, as well as for the pursuance of cooperation with relevant United Nations programmes, notably the United Nations Crime Prevention and Criminal Justice Programme, with regional organizations and mechanisms and non-governmental organizations with a view to enhancing further their effectiveness and cooperation on issues relating to the prevention and eradication of torture, inter alia, by improving their coordination;

27. *Recognizes* the global need for international assistance to victims of torture, stresses the importance of the work of the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture, and appeals to all States and organizations to contribute annually to the Fund, preferably with a substantial increase in the level of contributions, and to contribute to the Voluntary Fund established by the Optional Protocol to help finance the implementation of the recommendations made by the Subcommittee on Prevention of Torture;

28. *Requests* the Secretary-General to continue to transmit to all States the appeals of the General Assembly for contributions to the Funds and to include the Funds on an annual basis among the programmes for which funds are pledged at the United Nations Pledging Conference for Development Activities;

29. *Also requests* the Secretary-General to ensure, within the overall budgetary framework of the United Nations, the provision of adequate staff and facilities for the bodies and mechanisms involved in preventing and combating torture and assisting victims of torture or other cruel, inhuman or degrading treatment or punishment commensurate with the strong support expressed by Member States for preventing and combating torture and assisting victims of torture;

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[8] See A/62/221.

30. *Further requests* the Secretary-General to submit to the Human Rights Council and to the General Assembly at its sixty-third session a report on the status of the Convention and a report on the operations of the Fund;

31. *Calls upon* all States, the Office of the United Nations High Commissioner for Human Rights and other United Nations bodies and agencies, as well as relevant intergovernmental and non-governmental organizations, to commemorate, on 26 June, the United Nations International Day in Support of Victims of Torture;

32. *Decides* to consider at its sixty-third session the reports of the Secretary-General, including the report on the United Nations Voluntary Fund for Victims of Torture, the report of the Committee against Torture and the interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

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Sixty-second session
Third Committee
Agenda item 70 (a)
Promotion and protection of human rights: implementation of human rights instruments

Belarus: amendment to draft resolution A/C.3/62/L.26

Torture and other cruel, inhuman or degrading treatment or punishment

Add a new preambular paragraph after the fourth preambular paragraph, *reading*

Expressing concern over any attempt to narrow the definition of torture as stipulated in article 1 of the Convention when addressing the issue of the acceptability of specific interrogation practices in national law enforcement systems,

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Third Committee
Agenda item 70 (f)
Promotion and protection of human rights: celebration of the sixtieth anniversary of the Universal Declaration of Human Rights

Benin:* draft resolution

International Year of Human Rights Learning

The General Assembly,

Recalling that the purposes and principles contained in the Charter of the United Nations include encouraging respect for human rights and fundamental freedoms for all,

Reaffirming the central importance of human rights education in the Universal Declaration of Human Rights[1] and the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993,[2]

Recalling its resolution 60/251 of 15 March 2006, in which it decided that the Human Rights Council should promote human rights education and learning as well as advisory services, technical assistance and capacity-building,

Recalling also the 2005 World Summit Outcome, in which Heads of State and Government expressed their support for the promotion of human rights education and learning at all levels, including through the implementation of the World Programme for Human Rights Education, as appropriate, and encouraged all States to develop initiatives in that regard,[3]

Acknowledging that non-governmental organizations play an important role at the national, regional and international levels in the promotion and protection of human rights through education and learning,

Considering that the sixtieth anniversary of the adoption of the Universal Declaration of Human Rights in 2008 is a suitable occasion to redouble the

* On behalf of the States Members of the United Nations that are members of the Group of African States.

[1] General Assembly resolution 217 A (III).

[2] A/CONF.157/24 (Part I), chap. III, paras. 78-82.

[3] Resolution 60/1, para. 131.

07-56137 (E) 251007

Organization's efforts to promote a human rights culture worldwide through education and learning,

Welcoming the adoption by the Human Rights Council on 28 September 2007 of a resolution entitled "United Nations Declaration on Human Rights Education and Training",

Convinced that every woman, man and child, in order to realize their full human potential, must be made aware of all their human rights and fundamental freedoms,[4]

Convinced that human rights learning should serve to transform the holistic vision of the Universal Declaration of Human Rights into a way of life for people everywhere and a standard to measure the legitimacy of governments,

1. *Decides* that the year commencing on 10 December 2007 shall be proclaimed the International Year of Human Rights Learning, devoted to activities to broaden and deepen human rights learning as a way of life, on the basis of the principles of universality, impartiality, objectivity and non-selectivity, constructive international dialogue and cooperation, with a view to enhancing the promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development;

2. *Decides also* that the Human Rights Council shall promote the effective coordination and creative development of human rights learning among Member States and within the United Nations system;

3. *Calls upon* Member States to cooperate among themselves to promote human rights learning and to undertake throughout the year and beyond, at local, national and international levels, activities aimed at ensuring the universal knowledge and implementation of human rights;

4. *Invites* the Human Rights Council and the United Nations High Commissioner for Human Rights to develop, in cooperation with civil society organizations and appropriate United Nations agencies and programmes, suitable activities to promote human rights learning at all levels of society;

5. *Decides* to devote a high-level segment at its sixty-third session to reviewing activities of Member States and civil society aimed at human rights learning in the context of the commemoration of the sixtieth anniversary of the Universal Declaration of Human Rights;

6. *Requests* the Secretary-General to submit to the General Assembly at its sixty-fourth session a report on the implementation of the present resolution.

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[4] See resolution 54/161.